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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,023	10/31/2003	Andrew J. Cleveland	40081	7136

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EXAMINER
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DESCHERE, ANDREW M

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/698,023

Applicant(s)

CLEVELAND, ANDREW J.

Examiner

Andrew M. Deschere

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-26 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-26 of copending Application No. 10/732,837. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Drawings***

The drawings are objected to because the dimensions of the apparatus do not contain units (Figures 1 and 2). As such, they appear to be reference numerals. Please provide an indication in the Figures that these numbers are units of measurement or delete them.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be

Art Unit: 2836

renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "SEE NOTE 1" (Figure 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 1 objected to because of the following informalities: line 13 has the phrase "at least at least". Appropriate correction is required.

Art Unit: 2836

Claims 8-9 objected to because of the following informalities: lines 2-4 contain a grammatically incorrect phrase "whereby a human...may automatically receiving sensory stimulation...". Appropriate correction is required.

Claim 19 objected to because of the following informalities: line 5 is missing the word "of" between "plurality" and "phase". Appropriate correction is required.

Applicant is encouraged to review the claims to correct any further typographical errors.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-16, and 19-24 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patents 6,628,009 (Chapel) and 6,157,552 (Kern).

Chapel discloses a load balanced polyphase power distributing system (Figures 1 and 4) with rack-mounted, elongated, vertically mounted power strips 30A, 30B, 30C, and 30D. Power is supplied to the system via polyphase input cables 4 and 5, and the system has outputs 31, 32, and 33 associated with phase inputs. Phase inputs 21, 22, and 23 are seen in the system input plug in Figure 3, along with neutral path 24 and ground path 25. While Chapel discloses load balancing, he does not disclose the use of current monitoring to ensure safe operation. Kern teaches a control system for a polyphase system, including a graphical user interface that displays current flow information for each line (Figure 8; column 6, lines 34-41). It would have

Art Unit: 2836

been obvious to one of ordinary skill in the art at the time of the invention to provide a current monitor in the system of Chapel to provide user data as to the current levels so that excessive loading may be prevented.

Claims 8-9, 17-18, and 25-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Chapel, Kern and United States Patent 4,528,497 (Arato).

A combination of Chapel and Kern provides a polyphase power distribution system with current monitoring, but does not teach the use of a sensory or audible alarm. Arato teaches a fault monitoring system for electrical systems, and discloses that an overcurrent condition will actuate alarm circuitry (column 3, lines 52-55). Associated with the alarm circuitry are audible and visual alarms 60 (Figure 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide audible and visual alarms in the combination of Chapel and Kern to provide a further safety measure to facilitate notification to the user of an overload condition.

### ***Conclusion***

Examiner notes that the phrase "power supply communication" is atypical language, and this phrase is not defined within the specification. This phrase is used in claims 1, 4, 5, 10, 12, 13, and 19. Examiner interprets the phrase "power supply communication" to imply a connection between elements.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. United States Patent 4,538,196 (Sun) discloses current measurement for individual phases of a three-phase supply.


Art Unit: 2836

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Deschere whose telephone number is (571) 272-8391. The examiner can normally be reached on M-F 8:30-6:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571) 272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMD



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